

## **Minneapolis City Planning Department Report**

### **Conditional Use Permit Application BZZ468**

**Date:** April 29, 2002

**Applicant:** Richard Pruitt for Aardvark Abatement and Contracting

**Address of Property:** 3215 Logan Avenue

**Date Application Deemed Complete:** January 15, 2002

**End of 60-Day Decision Period:** March 15, 2002

**Extension letter Sent:** Yes

**End of 120-Day Decision Period:** May 16, 2002

**Contact Person and Phone:** Pat Skelly

Phone: 651.209.6300

**Planning Staff and Phone:** Kimberly Tollefson

Phone: 612.673.2998

[kimberly.tollefson@ci.minneapolis.mn.us](mailto:kimberly.tollefson@ci.minneapolis.mn.us)

Fax: 612.673.2526

**Ward:** 4      **Neighborhood Organization:** Jordan Area Community Council

**Zoning:** C1

**Proposed Use:** An existing contractor's office.

**Background:** Aardvark Abatement and Contracting contracts with customers to remove asbestos from the customer's buildings and dispose of the asbestos. The existing operation of the use at 3125 Logan Avenue is considered to be illegal. Since November of 2000, all contractors' offices established in a C1 district are considered conditional. An approved conditional use permit is required to make the use conforming to the Zoning Code. The applicant's representative indicates that the use was established at the site on November 15, 2000 with no zoning approvals.

The Minnesota Department of Health (MDH) classifies asbestos as a hazardous material. Asbestos work is regulated by the state to ensure the public is protected. The MDH specifies work practices to identify and manage asbestos and to safely remove, encapsulate or enclose asbestos-containing materials. The MDH licenses asbestos contractors.

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**Neighborhood Review:** Planning contacted the neighborhood group. According to telephone conversations with the group's staff, their concerns relate to the asbestos stored on-site and the trucks parked outside, overnight.

**Findings as Required by the Minneapolis Zoning Code:**

The Minneapolis City Planning Department has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

**1. May be detrimental to or endanger the public health, safety, morals, comfort or general welfare.**

The Minnesota Department of Health (MDH) classifies asbestos as a hazardous material. Asbestos is a mineral fiber that can cause scarring of lung tissue and inflammation of the lung cavity. Asbestos exposure also increases the incidence of lung cancer and other cancers. In general, the more asbestos a person is exposed to, the greater the risk of developing asbestos related disease. Asbestos work is regulated by the state to ensure the public is protected. The MDH specifies work practices to identify and manage asbestos and to safely remove, encapsulate or enclose asbestos-containing materials. MDH licenses asbestos contractors (please see attached license).

The asbestos arrives from the construction sites in sealed bags via commercial trucks. The applicant stores asbestos on the site, within the building, in a dumpster. The asbestos remains on site until the dumpster is full. A waste hauler arrives at the site to unload the dumpster and transfer the asbestos. The applicant's representative indicates that there is always asbestos on site and the waste hauler unloads and transfers the asbestos approximately every two to three days.

According to the applicant's representative, asbestos is not considered "hazardous" once it is abated. The applicant abates the asbestos at the construction site before moving it to the business located on Logan Avenue. The asbestos is abated by wetting and sealing the asbestos in six mil bags (very heavy plastic bags that are highly punctured and abrasive resistant).

According to the Planning staff discussion with the MPCA, the hazardous material is regulated by MPCA from disturbance to disposal and even at the landfill. MPCA has no distinction of it being unregulated or "nonhazardous" at any point.

**2. May be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district, nor substantially diminish and impair property values.**

The surrounding uses of Aardvark Abatement are commercial and residential. These include a dental office, retail stores and an automobile convenience facility, apartments, duplexes and single family homes. The subject structure is a single story, single use building.

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According to the Zoning Administrator, this use was classified as a contractor's office because a contractor's yard includes the outdoor storage of machinery or equipment. This use does not store machinery or equipment outdoors (commercial trucks are not considered machinery or equipment). The Zoning Administrator does indicate that some contractor's offices could be considered so intense a use as to be better classified as an industrial-level use. City Council recently took action that is consistent with this interpretation for a contracting business with semi deliveries through a residential alley and a fleet of delivery vans but no outdoor storage.

The Zoning Code requires that certain conditions be met on a site for uses such as a contractor's office. These conditions relate to storage, parking and landscaping and screening.

***Storage.*** The operation of this business does not include outdoor storage. The asbestos is stored entirely within dumpsters within the building. The existing building contains an office, conference room, restrooms and storage. The building does not accommodate space for the business' commercial vehicles; therefore the vehicles must be stored outside rather than within the building.

***Required Parking.*** A contractor's office of 4,000 square feet or less requires four off-street parking spaces. An additional parking space is required for each commercial vehicle maintained on the site. Aardvark Abatement requires six parking spaces (two for the two commercial trucks stored on the site). According to the Zoning Administration Office, there are grandfathered rights to four parking spaces. Therefore, the Zoning Code requires the provision of two parking spaces, despite the actual demand. According to the applicant, one additional parking space is available within the building.

***Available Parking.*** According to the site plan, only two parking spaces can be accommodated on the site (please see #1 and #2 on the attached site plan). These two parking spaces are located between the structure and Logan Avenue. These spaces are also located adjacent to the residential structure to the south of the site (please see attached photo).

All spaces are required to be dimensioned 8.5' x 18'. Two-way drive aisles are required to be 22 feet in width and one-way drive aisles are required to be 20 feet in width. According to the site plan, the business trucks are 24 feet in length. These vehicles will extend into the required drive aisle. The vehicles will also extend in front of the existing curb cut along Logan Avenue.

According to information received from the applicant's representative, there are six employees who arrive at the site in the morning, park and utilize the commercial trucks for the day. There are also very little or no walk-in customers. Employees would be required to "swap" out the two commercial trucks and park their personal vehicles in the overnight truck spaces. This will accommodate two employees' personal vehicles. Other personal vehicles must therefore utilize on-street parking for the duration of the workday. The alternative would be to park in illegal spaces on the site.

Since the time staff wrote the original report recommending denial (February 25, 2002), the applicant's representative provided new information relating to the employees arriving at the site. Based on the new information the following conditions exist:

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- Two employee vehicles will replace the business trucks on site during the day. All other employees will be required to drive directly to the job site with their privately-owner vehicle.
- The applicant has indicated that the number of employees varies with the demand for work. Currently, the maximum number of employees is four. Parking may be accommodated for the four employees. Three spaces are available on-site during the day, while the other space would be provided on the public street. The applicant has indicated that the one employee who works at the office during the day will utilize the space within the building.
- According to the applicant, the office employee doesn't park on the site and other employees walk to the site because they live close and/or do not have their own vehicle.

Planning staff has received contradicting information from the applicant. It is difficult to determine the demand for parking if the number of employees is based on the demand if the work contracted by Aardvark is always changing or based on the wherever the employees currently walk to the site. It would be extremely difficult, if not impossible, to enforce or regulate a limit to the number of employees or to enforce that they must drive to the job site instead of arriving at the office.

Regardless of the number of employees on site at any one time, there are still issues of safe maneuvering on the site, the potential for increased congestion on the street.

Access to the site and building by the waste hauler is an integral part of the operation of this business. Access to the dumpsters, stored within the building, must be made from Lowry Avenue. Access from the alley is prohibited due to the adjacent residential uses on the block. This requires the waste hauler to access the site from Lowry and back into the area of the site that is adjacent to the garage doors which allows access to the dumpster. This activity occurs every two to three days. It also further complicates the parking and safe maneuvering on the site.

The above mentioned parking and traffic constraints on the site may be a cause for difficult maneuvering and haphazard conditions on the small site and may cause an increase in congestion on the public streets.

***Landscaping and Screening.*** According to 541.360, *Landscaping, Screening and curbing*, parking lots of four to nine spaces or any parking of commercial vehicles shall be screened as specified in Chapter 530, Site Plan Review. Chapter 530, requires a five-foot landscaped yard, with a screening that reaches three to four feet in height and 60% opaque. Based on the location of the parking spaces and the curb cut from Logan Avenue, it will be impossible to landscape and screen the parking area from the public street. As stated above, the business trucks will extend into the required drive aisle and will not be screened from the public street.

The visual impact of parking between the structure and the public street without the appropriate and required landscaping and screening may be a negative impact on the neighborhood.

**3. Will have adequate utilities, access roads, drainage and/or other necessary facilities.**

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According to the initial review of the site plan, the Department of Public Works will require that the roof drainage be directed to the surface or storm drain. Connections to the sanitary sewer are not permitted and must be removed.

**4. May not adequately provide ingress and egress designed as to minimize traffic congestion in the public streets.**

The site can only accommodate minimal parking on-site. As stated above, the applicant has grandfathered rights to the required four parking spaces. Issues regarding ingress and egress are applicable based on the present location of the curb cuts and the parking area. The demand for parking based on the number of employees and the frequency of visits to the site from the waste hauler suggests that maneuvering on the site will be difficult. As indicated above, the parking and traffic constraints on the site may cause for difficult maneuvering and haphazard conditions on the small site and may cause an increase in congestion on the public streets.

**5. Is not consistent with the applicable policies of the comprehensive plan.**

According to *The Minneapolis Plan*, Lowry Avenue is a Community Corridor. Community Corridors have the following characteristics:

- Streets connect more than two neighborhoods.
- Corridors have a land use pattern that is primarily residential with intermittent commercial uses clustered at intersections in a pattern of nodes.
- Streets carry a range of traffic volumes.
- Corridor land use and building form exhibit traditional commercial and residential form and massing.
- Commercial uses on community corridors are generally small-scale retail sales and services serving the immediate neighborhood.

The following implementation steps are identified for Community Corridors:

- Strengthen the residential character of Community Corridors by developing appropriate housing types that represent variety and a range of affordability levels.
- Promote more intensive residential development along these corridors where appropriate.
- Require that street design for these corridors preserves and enhances the strong residential character and pedestrian orientation of these streets.
- Ensure that commercial uses do not negatively impact nearby residential area.

Planning staff does not believe the use will contribute to strengthening the residential character of the corridor or enhance the pedestrian orientation of the street. The location of the site is within an intersection of a commercial node. Staff believes the potential impacts of the use in terms of parking (both on-site and off-site), maneuvering on site, storage of commercial vehicles outside and overnight, the frequency of visits by the waste hauler and the lack of landscaping and screening may work in the opposite direction of the implementation steps listed above. It is difficult to ensure that this commercial use will not negatively impact nearby residential areas, the congestion on the public street and possibly the safe maneuvering on-site.

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**6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit.**

The C1 district is classified as the Neighborhood Commercial District and is established to provide a convenient shopping environment of small-scale retail sales and commercial services that are compatible with adjacent residential uses. As indicated by the Zoning Administrator and by previous actions taken by City Council, this use may be considered intense enough to be considered an industrial-level use.

The applicant has not proposed any signage on the site. The applicant's representative indicates that advertisement is not needed because walk-in customers are rare. The proposed hours of operation of Monday through Friday from 7:00 a.m. to 4:00 p.m. conform to the C1 standards.

**Recommendation of the Minneapolis City Planning Department:**

The City Planning Department recommends that the City Planning Commission adopt the above findings and deny the conditional use permit application for a contractor's office.

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